

The Honorable J. Kelley Arnold

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PAMELA K. FITZSIMMONS,)
v.)
THE COLUMBIAN PUBLISHING)
COMPANY dba THE COLUMBIAN,)
Plaintiff,)
Defendant.)
No. C05-5321JKA
STIPULATED PROTECTIVE ORDER

Upon stipulation of the parties for a Protective Order pursuant to Rule 26(c) of the Federal Rules of Civil Procedure:

IT IS HEREBY ORDERED that the following conditions shall regulate the use and disclosure of information provided by and to the parties and their attorneys in the above-entitled matter.

1. **Confidentiality.** Either party may designate and mark as “Confidential, Subject to Protective Order” or “Confidential, Subject to Protective Order, Attorneys’ Eyes Only,” any documents or other discovery material which will be produced in this action which are considered by either party to be proprietary or otherwise confidential or sensitive in nature. “Confidential, Subject to Protective Order” or “Confidential, Subject to Protective Order, Attorneys’ Eyes Only” material, as used in this Order, shall refer to any so designated document, or other discovery material (including responses to document requests and interrogatories, and

**DEFENDANT'S FIRST REQUEST FOR ADMISSIONS
TO PLAINTIFF - 1
Case No. 05-5321JKA**

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1 deposition testimony and transcripts as specified below), and all copies thereof, and shall also
2 refer to the information contained therein. No such designation shall be made unless counsel
3 believes in good faith that the designated material is entitled to protection under Rule 26(c) of the
4 Federal Rules of Civil Procedure.

5 2. Use. Documents and discovery material designated “Confidential, Subject to
6 Protective Order” and “Confidential, Subject to Protective Order, Attorneys’ Eyes Only,” and all
7 copies thereof, shall be maintained in confidence by counsel of record and shall be used solely
8 for the purpose of this litigation, and shall not be used for any business, commercial,
9 competitive, personal, or other purpose. All documents and discovery materials designated
10 “Confidential, Subject to Protective Order” and “Confidential, Subject to Protective Order,
11 Attorneys’ Eyes Only” shall not be disclosed to any person except as defined herein below
12 unless expressly ordered by the Court or agreed to by the parties.

13 “Confidential, Subject to Protective Order” and “Confidential, Subject to Protective
14 Order, Attorneys’ Eyes Only” material may be referred to in pleadings, motions, and briefs
15 submitted to this Court, and may be used in depositions and marked as exhibits. However, no
16 such document or testimony shall be used for any of these purposes unless it, or the portion of
17 the Court papers in which it is revealed, is appropriately marked confidential and, if applicable,
18 filed under seal with the Court.

19 3. Access. “Confidential, Subject to Protective Order” and “Confidential, Subject to
20 Protective Order, Attorneys’ Eyes Only” material shall not be disclosed by counsel of record to
21 any person except:

22 (a) the Court;

23 (b) employees of the law firms of counsel of record, and any such employees shall be
24 bound by the terms of this Order;

25 (c) the parties;

26
STIPULATED PROTECTIVE ORDER - 2
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1 (d) witnesses in this litigation to the extent necessary to verify, challenge, or clarify
2 the information, or who have created the document or previously have seen the document; and

3 (e) experts or independent consultants engaged by counsel of record for the parties to
4 assist in this litigation.

5 Each person to whom “Confidential, Subject to Protective Order” and “Confidential,
6 Subject to Protective Order, Attorneys’ Eyes Only” material is disclosed must be informed of
7 this Order, receive a copy, and comply with its terms. The Court shall have jurisdiction over any
8 proceedings involving alleged improper use or disclosure of the confidential material. This
9 Order shall not prevent the disclosure of documents to the persons who were authors or
10 addressees of the documents or shown as having received a copy of them.

11 4. Deposition Testimony. The parties may orally designate testimony as
12 “Confidential, Subject to Protective Order” during the course of a deposition. Either party may
13 also designate portions of deposition transcripts as “Confidential, Subject to Protective Order.”
14 Whenever a “Confidential, Subject to Protective Order” designation is used during the
15 examination by deposition of any witness, the party making such a designation shall inform the
16 witness that the use of matter or testimony so designated is subject to the terms of this Order and
17 the witness shall agree to be bound by the terms of this Order prior to the deposition proceeding.

18 5. Objection to Designation. This Order is without prejudice to the parties’ rights to
19 object to the designation of material as “Confidential, Subject to Protective Order” or
20 “Confidential, Subject to Protective Order, Attorneys’ Eyes Only,” and does not shift or alter the
21 burden of proof with respect to establishing that the material in question constitutes proprietary
22 or otherwise confidential or sensitive information entitled to protection under Federal Rule of
23 Civil Procedure 26(c).

24 6. Notification, Conference, and Motion. In the event that either party’s counsel
25 disagrees with the designation of any document or discovery material as “Confidential, Subject
26 to Protective Order” or “Confidential, Subject to Protective Order, Attorneys’ Eyes Only,”

STIPULATED PROTECTIVE ORDER - 3
Case No. 05-5321JKA

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counsel shall advise counsel for the other party in writing of their objection and identify the document or material with sufficient specificity. The parties agree to confer in good faith to resolve any dispute over the designation. If the parties cannot reach agreement, an appropriate motion shall be filed with the Court.

7. Return of Documents. Within thirty (30) days of the final resolution of this action, all documents and discovery materials which have been designated “Confidential, Subject to Protective Order” and “Confidential, Subject to Protective Order, Attorneys’ Eyes Only” by either party shall be returned to them, together with all copies thereof, or counsel of record shall certify in writing that such materials, and all copies thereof, have been destroyed.

8. Duration and Modification. Insofar as the provisions of this Order restrict the communication and use of any documents, materials and/or information produced, the Order shall continue to be binding after the conclusion of this litigation, and disclosure can be made only with the express written permission of the parties or as otherwise determined by this Court.

9. **Binding Order.** This Order shall be binding on the parties, their attorneys, and the agents, employees, consultants and other persons employed or retained by the parties or their attorneys.

IT IS HEREBY ORDERED this 8th day of December, 2005.

/s/J. Kelley Arnold
Honorable J. Kelley Arnold

IT IS SO STIPULATED:

ALTSCHUL LAW OFFICE, PC

BARRAN LIEBMAN LLP

By: _____ /s/
Andrew Altschul, WSBA No. 32025

By: _____ /s/
Edwin A. Harnden, WSBA No. 32478
Brenda K. Baumgart, OSB No. 99216
Pro Hac Vice

Attorney for Plaintiff

Of Attorneys for Defendant

Dated: December 5, 2005

Dated: December 5, 2005

STIPULATED PROTECTIVE ORDER - 4
Case No. 05-5321JKA

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CERTIFICATE OF SERVICE

I, Brenda K. Baumgart, certify under penalty of perjury under the laws of the State of Washington that, on the ____ day of December, 2005 I caused to be served on the person listed below in the manner shown:

STIPULATED PROTECTIVE ORDER

Andrew Altschul
ALTSCHUL LAW OFFICE, PC
117 SW Taylor Street, Suite 200
Portland, OR 97204

Attorneys for Plaintiff

By causing the same to be: : emailed hand delivered faxed mail
to them a true and correct copy thereof.

By _____
Edwin A. Harnden, WSBA No. 32478
Brenda K. Baumgart, OSB No. 99216
Pro Hac Vice
Attorneys for Defendant The Columbian
Publishing Company

**CERTIFICATE OF SERVICE - 1
Case No. 05-5321JKA**

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